

Police Issued ADVOs

Summary of Changes to the *Crimes (Domestic & Personal Violence Act)*

Domestic and Family Violence continues to be a major concern in NSW. Sadly every year around three out of four homicides happen at home and people die by the hands of someone close to them. Domestic and family violence also harms children who witness violence at home or are hurt as a result of violence towards them or from trying to stop someone they love being hurt.

To provide victims of domestic and family violence with immediate protection, the NSW Government approved important changes to the *Crimes (Domestic & Personal Violence) Act 2007*. These changes will apply from **20 May 2014**.

This information is about how these changes will affect **police powers** involving domestic and family violence.

From 20 May 2014, NSW Police will have greater powers under the law in two main areas:

1. POLICE DIRECTION AND DETENTION POWERS

Police will be able to direct and detain offenders for applying for and serving provisional *apprehended domestic violence orders* (ADVOs). This means that if the police suspect or believe that domestic violence has happened or is likely to happen the police will apply for a provisional ADVO. Police can take this action even if the victim is not willing to make a complaint. This is to control the offender's movements while applying for ADVO and making sure the victim/s and others in need of police protection are safe and remain safe.

What direction options can police give?

Police will have a number of options to choose from in directing offenders, including remaining where police finds the offender or to **accompany to a police station and remain there**.

These direction powers are used with the intention of making an application for a provisional ADVO. Police can choose the direction they think is most appropriate to the situation they are dealing with.

Direction to accompany police: Police are more likely to use this option as it allows for better protection of the victim by removing the offender until a provisional ADVO is served. For secure transportation in a police vehicle to police station, police may **temporarily** detain a defendant and search them. Once at the station the defendant will no longer be under detention but will be under a direction to remain at the station.

How long will a police direction last?

Police direction to remain can last as long as is reasonably necessary for police to apply for and serve a Provisional ADVO.

Can the defendant refuse or fail to comply with police direction to remain?

Refusal or failure to comply with police direction is not an offence but if this happens police can detain the defendant to serve the Provisional ADVO. Police can use reasonable force to detain a person. If the person resists, and/or assaults police during the detention process then they may be charged with these offences.

How long can a defendant be in police detention?

A defendant can be detained for a maximum of two hours. This does not include reasonable travel time to the police station or other location.

2. SENIOR POLICE OFFICERS WILL HAVE POWER TO DETERMINE APPLICATIONS FOR PROVISIONAL ADVOs

This means the majority of domestic and family violence applications for provisional ADVOs will be made to senior police officers instead of authorised justices from the Court.

This new process will provide faster and immediate access to provisional ADVOs for victims at risk of violence. It will also save time and resources for police and courts ensuring immediate victim safety and increased deterrence to DV offenders.

Determination of applications by senior police officers

A senior police officer is an officer of or above the rank of Sergeant.

A senior police officer must decide whether there are

reasonable grounds for making a provisional ADVO. Their decision is based on the police application and the information known at the time of the application. Senior police officers will consider the investigating officer's report and decide if it is necessary to make an immediate order to protect the safety of the person/s and property. This process is called the 'Legal Test'. It is the same test used by authorised justices in granting provisional apprehended domestic violence orders.

The provisional ADVO conditions

The senior police officer can approve, decline or vary provisional ADVO conditions that are sought by an applicant police officer.

The provisional ADVO must be listed on the next domestic violence list day at the appropriate court but not more than 28 days after the order is made.

For further information please contact Law Access on 1300 888 529.



Triple Zero (000)
For emergencies or life threatening situations.



Police Assistance Line (131 444)
For non emergencies.



Crime Stoppers (1800 333 000)
To provide crime information. It can be anonymous.